IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.6322 OF 2005

Uday Ramesh Patil ...Applicant
vs.
State of Maharashtra & Ors. ...Respondents

Mr.A.P.Mundergi a/w Mr.S.M.Sabrad for the Applicant
Ms M.H.Mhatre,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : OCTOBER 10,2005

P.C.:

1. Heard learned Senior Counsel for the Applicant and the learned A.P.P. for State. The offence has been registered against the Applicant under sections 420, 465, 466, 468, 471 read with Section 34 of the Indian Penal Code. The allegation of the prosecution is that the Applicant prepared a forged document i.e. extract of birth register and in conspiracy with Head Master of the school and others made interpolations and corrections in the general register of the school for the purposes of changing his birth date. It appears that the Applicant contested election of legislative assembly from South Solapur Constituency against the Ex-Chief Minister Mr.Sushilkumar Shinde. The allegation is that by using the forged document the Applicant deceived the Returning Officer.

2. On the last date when this Application was heard, it was contended by the learned A.P.P. on the instructions of the Investigating Officer that though the register of the relevant school has been earlier inspected, the police could not seize the said register as it is not available. It was therefore

submitted that a very important piece of evidence is sought to be destroyed. My attention was invited to the reported dated 22nd September 2005 signed by the Mr.V.B.Gaikwad,Sub Inspector of Police, Sadar Bazar Police Station and submitted to Mr.Kallurkar, Senior Inspector of Police, Sadar Bazar Police Station. It is stated in the report that when he visited the office of the Block Development Officer for taking custody of the said register, he was told that permission of the Chief Executive Officer of the Zilla Parishad was necessary. When this communication was brought to the notice of this Court on the last date, time was granted to the learned A.P.P. to enable the Investigating Officer to take custody of the said register. Today on instructions of the Investigating Officer the learned A.P.P. states that no further steps have been taken by the Investigating Officer as the Investigating Officer has not received any further instructions to investigate from the Senior Inspector of Police of the concerned Police station.

3. The offence has been registered in August 2005 for the incident of October 2004 when it is alleged that the Applicant produced fabricated documents. The main allegation of the prosecution is as regards tampering and fabrication of extract of the school register. From the statement which is made by the learned A.P.P. today and from the report dated 22nd September 2005 referred to above in this order, it is obvious that the prosecution is not keen on taking steps for seizing the relevant document i.e the school register. As regards

entry in the birth register, it is admitted position that the inspection thereof has been taken and a copy of the birth certificate is a part of investigation papers. The report submitted by the police Head Constable Mr.Kamble to Mr.Kallurkar, Senior Inspector of Police discloses that the inspection of the school register has been taken and a xerox copy thereof has been obtained.

4. If the Senior Inspector of Police has not chosen to give instructions to carry out further investigation, undue harassment will be caused to the Applicant if he is not granted pre-arrest bail. It must be noted here that a Petition under Article 226 of Constitution of India was filed by some persons in this Court inter alia praying for taking action against the Applicant and concerned officials on the ground that incorrect date of birth was deliberately given by the Applicant. The said Petition was not entertained by the Division Bench of this Court by observing that the Petition has been filed with a oblique motive. A case is made out for granting anticipatory bail.

5. Hence I pass the following order :

i) In the event of the arrest of the Applicant in connection with C.R.No.255 of 2005 registered with Sadar Bazar Police Station, Solapur, the Applicant shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.15,000/- (Rupees fifteen thousand only) with one or two local sureties

in the like amount.

ii) The Bail is granted subject to condition that the Applicant will attend the concerned Police Station as and when called upon to do so till filing of the charge sheet and will cooperate for the purposes of investigation.

iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the Police Officer/investigating agency. The Applicant shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) This order will enure to the benefit of the Applicant only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate Court for appropriate relief.

vi) Application is disposed of in above terms.

vii) Parties to act upon an authenticated copy of this order.

JUDGE